

Rule 1004. Admissibility of Other Evidence of Contents.

An original is not required and other evidence of the content of a writing, recording, or photograph is admissible if:

- (a) all the originals are lost or destroyed, and not by the proponent acting in bad faith;
- (b) an original cannot be obtained by any available judicial process;
- (c) the party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or
- (d) the writing, recording, or photograph is not closely related to a controlling issue.

Comment to 2012 Amendment

The language of Rule 1004 has been amended to conform to the federal restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

Cases

1004.010 If a party is able to prove that a writing did exist and establish one of the requirements of Rule 1004, the party may present oral evidence of the contents of the writing.

Coombs v. Luffkin, 123 Ariz. 210, 598 P.2d 1029 (Ct. App. 1979) (plaintiffs claimed that defendants had signed letter agreement wherein they agreed to pay plaintiffs' creditors; defendants contended letter never existed).

April 10, 2013

ARIZONA COURTROOM EVIDENCE MANUAL